Such exclamations as are natural and spontaneous utterances caused by present pain, are competent testimony. *Fay* v. *Harlan*, 128 Mass. 244; *Wheeler* v. *Railway Co.*, 43 S. W. 876. They are part of the res jestae and not hearsay evidence. Under proper circumstances, they are admissible, even after suit has been instituted. *Ry. Co.* v. *Newell*, 104 Ind. 264; *Quaife* v. *Ry. Co.*, 4 N. W. 658. Greenleaf on Evidence: "The mere fact that a suit was pending would not exclude such testimony." 1 Green, § 626.

FRAUDULENT CONVEYANCES—HOMESTEAD—TRANSFER TO WIFE—KETTLESCHLAGER v. FERRICK, 81 N. W. 889 (S. D.).—A transfer of the homestead from the defendant to his wife, was made to prevent creditors from subjecting the premises to the satisfaction of their claims. Seven years afterwards the defendant removed to a new homestead, and an action was then brought by a judgment creditor to set the deed aside as fraudulent. *Held*, that the deed of conveyance did not pass title, but was colorable only, and should be set aside, as the mere contrivance of a dishonest debtor; 60 Texas 139.

The rule in some jurisdictions is that such a conveyance, whether made to defraud creditors or not, would still be valid, as such property cannot be subject to a fraudulent conveyance, for the reason that the rights of no creditor can be prejudiced by it. *Patten* v. *Smith*, 4 Conn. 450; *Bump on Fraud*, Con. p. 268; *Deutzer* v. *Bell*, 11 Wis. 114.

GIFT—DEPOSIT IN BANK—PENINSULAR SAV. BANK v. WINEMAN ET AL., 81 N. W. 1091 (Mich.).—Where a husband deposited money in a bank to his wife's credit, and a pass book was issued in her name, the wife not knowing that the money was deposited to her credit until after her husband's death, *held*, in the absence of acts and declarations indicating an intention to donate the fund, it did not constitute a gift. *Broderick* v. *Bank*, 109 Mass. 149; *Sherman* v. *Bank*, 138 Mass. 581; contra, *Howard* v. *Bank*, 40 Vt. 597.

INJUNCTION—GROUNDS—THREATENING SUITS FOR INFRINGEMENT OF PATENT—A. B. FARQUAHAR CO., LTD., v. NATIONAL HARROW CO., 99 Fed. 160 (N. J.).—The owner of a patent sent out circulars saying that complainant infringes such patent, that complainant is not financially responsible, and that the recipients will be subjected to suit if they continue to handle the infringement. *Held*, that a court of equity will not enjoin the sending out of such circulars.

The English courts have generally granted an injunction to restrain libellous publications against the business of another. The current of American decisions has been the other way on the ground of there being an adequate remedy at law for the alleged libel. It will be seen that this case is at variance with *Adriance, Platt & Co.* v. *Nat. Harrow Co.*, 98 Fed. 118, 9 YALE LAW JOURNAL 233, which seems to incline to the English rule, and it will also be noted that the state of facts and defendants in the two cases are identical.

INJURY TO EMPLOYEE—VICE PRINCIPAL—NEGLIGENCE—METROPOLITAN WEST SHORE R. R. v. SKOLA, 56 N. E. 171 (Ill.).—The foreman of the work of cleaning, repairing and inspecting cars, ran a car into the shed for cleaning. In doing so he ran into a car under which deceased, by order of said foreman, was at work, and killed him. *Held*, foreman was to be considered a vice principal, and that company could be held for the death of the plaintiff's intestate.

The present case is a close one on the question as to the distinction between fellow servants and vice principal, and illustrates the difficulties Shaw, C. J., mentions in *Farwell* v. *Boston & W. R. Co.*, 4 Metc. 49, when we attempt to draw a distinction between them. The Illinois courts have been more willing to recognize this distinction than have those of Massachusetts. *Toledo R. Co.* v. *Ingraham*, 77 Ill. 309, and the present case shows to what an extent it may be carried.